



REPLY TO
ATTENTION OF

Regulatory Branch

DEPARTMENT OF THE ARMY
SEATTLE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 3755
SEATTLE, WASHINGTON 98124-3755

JUN 19 2002

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JUN 21 2002

National Marine Fisheries Service
ATTN: Steve Landino, Chief
Habitat Branch
510 Desmond Drive SE, Suite 103
Lacey, Washington 98503-1263

AGCW - SEATTLE

Ken S. Berg, Manager
U.S. Fish and Wildlife Service
ATTN: Ms. Nancy Brennan-Dubbs
Ecological Services
510 Desmond Drive SE, Suite 102
Lacey, Washington 98503-1263

Reference: Informal Consultations And
Request for Final Concurrence

Ladies and Gentlemen:

We have enclosed the following biological evaluations (BE's) for your review:

- 2001-1-00896, North Harbor Diesel and Yacht Service, - construction of a ramp, float, and dock (Project Manager, Olivia Romano - telephone 206-764-6960)
- 2001-1-00155, Ash Grove Cement Company, - maintenance dredging (Project Manager, Olivia Romano - ext. 6960)
- 2001-4-00002, Kitsap County Public Works, - installation of weirs, placement of gravel, and bank stabilization (Project Manager, Olivia Romano - ext. 6960)
- 2001-4-00633, Snohomish County Public Works, - installation of rock and quarry spalls, and the placement of anchored logs (Project Manager, Susan Glenn, - ext. 6904)
- 1999-2-01216, Wick, Brian, - construction of a pier, ramp, and float (Project Manager, Rozwin Liera, - ext. 6901)
- 2001-1-00767, Fitz, J. D., - installation and removal of piling for an over-water structure (Project Manager, Muffy Walker, - 6915)
- 2001-1-00708, Resort at Deer Harbor/Deer Harbor Marina, - installation of a desalinization water system (Project Manager, Susan Powell - ext 5527)

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To each BE, we have attached a Memorandum for the Services (MFS) that documents our determinations of effect for species listed and proposed as threatened and endangered, and their designated or proposed critical habitat. In accordance with informal consultation procedures under Section 7 of the Endangered Species Act (ESA), we request your concurrence with our determinations of "not likely to adversely affect" for listed species and "no jeopardy" to proposed species under your jurisdiction.


This letter will serve as our request to initiate formal consultation if you find that any of the projects are likely to adversely affect listed species under your jurisdiction.

Essential Fish Habitat:

For National Marine Fisheries Service, this letter initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Each individual MFS documents the EFH and associated species group present in the project area, the EFH assessment (included in the BE), and our EFH determination.

If you have any questions or comments concerning any of the BEs, please contact the assigned project manager directly. If you have any questions concerning this letter, please contact Ms. Gail Terzi at (206) 764-6903.

Sincerely,


for Thomas F. Mueller
Chief Regulatory Branch

Enclosures

cc: All referenced applicants with Memorandum for the Services and Endangered Species Act
Section 7 Consultation Process Information Paper

MEMORANDUM FOR THE SERVICES (MFS)

CENWS-OD-RG

Re: Endangered Species Biological Evaluation Review

Reference Number: 2001-1-00155

Applicant's Name: Ash Grove Cement Company

Project Manager: Olivia Romano

Date: June 11, 2002

I. Project Purpose, Description and Location:

The proposed project is located in the Duwamish Waterway, Section 18, Township 24N, Range 4E, King County, Washington. The applicant proposes to remove approximately 600 cubic yards of material (sand, gravel aggregate, and limestone rock) that has accumulated at the barge unloading berth during the barge unloading process. Additionally, a similar amount of material would be removed approximately every two years for a period of ten years. The dredging area is 130 ft by 30 ft (3900 sq. ft.) and depths in range from -16 to -30 ft MLLW. Accumulated material would be removed using a clamshell bucket on a barge. The material would be dewatered and contained on a flat deck barge equipped with fences made of ecology blocks with hay bales and filter fabric. Material removal will be limited to previously spilled material and depth will not be increased beyond the authorized depth. Material will be disposed through incorporation into the cement manufacturing process. Work is expected to be completed in one to two days.

II. Coordination History: This project is a new application. Historically, dredging has periodically occurred at the site, most recently in 1999, when 750 cubic yards of material was removed.

III. Determination of Effect: The Corps has determined that the project proposed will have the following effect on the listed species:

1. Puget Sound chinook salmon: May affect, not likely to adversely affect.

The project may result in temporary increases in suspended sediment during dredging, however, turbidity is expected to be short-term. The dredged area would experience a short-term reduction in vegetation and benthic infauna, however, these communities are expected to recover fairly rapidly. This disturbance would not be expected to substantially affect the availability of epibenthic prey for juvenile salmon because of the expected recovery. In-water work windows will minimize the chance that juveniles are present during project construction.

2. Bull Trout: May affect, not likely to adversely affect.

The project may result in temporary increases in suspended sediment dredging, however, turbidity is expected to be short-term. In-water work windows will minimize the chance that bull trout are present during project construction.

3. Bald Eagles: May affect, not likely to adversely affect.

The project will result in increased noise during dredging activities. The nearest known nest territory, in the vicinity of the project, is located 1.5 miles away. Eagles are likely to occur in the project area, however, they are most likely adapted to the urban conditions along the lower Duwamish and habituated to the increased noise of this urban environment. Foraging disturbances due to dredging are expected to be minimal and short-term.

4. Humpback Whale: No effect.

It is unlikely that humpback whales would be present in the Action Area and would be expected to avoid the site when dredging is occurring. The potential short-term disturbance would have no significant effect on this species.

5. Steller Sea Lion: No effect.

It is unlikely that Steller sea lions would be present in the Action Area and would be expected to avoid the site when dredging is occurring. The potential short-term disturbance would have no effect on this species.

6. Leatherback Sea Turtle: May affect, not likely to adversely affect.

It is highly unlikely that Steller sea lions would be present in the Action Area and would be expected to avoid the site when dredging is occurring. The potential short-term disturbance would have no effect on this species.

III. Biological Evaluation:

The biological evaluation/assessment prepared by Dan Moriarity, dated August 2001, adequately assesses the impacts of the proposed project on the species referenced above with the following additions:

- The **in-water work window (work allowed)** for projects in this area (Duwamish River) is August 1st through August 31st. No in water work will be allowed from September 1st through July 31st.

IV. Special Conditions: To ensure the effect of the project will be as determined, the following conditions will be conditions of the Corps permit:

a. The **in-water work window (work allowed)** for projects in this area (Duwamish River) is August 1st through August 31st. No in water work will be allowed from September 1st through July 31st.

b. You must implement the ESA requirements and/or agreements set forth in the Biological Evaluation for Material Recovery at Offloading Conveyor Ash Grove Cement Company, dated August 2001 in their entirety. The U.S. Fish and Wildlife Service concurred with a finding of "may affect, not likely to adversely affect" based on this document on [DATE] (USFWS Reference Number ###). The National Marine Fisheries Service concurred with a finding of "may affect, not likely to adversely affect" based on this document on [DATE]. Both agencies will be

informed of this permit issuance and will enforce any known violations of the commitments made in this document pursuant to the ESA.

V. Essential Fish Habitat

In accordance with the Essential Fish Habitat (EFH) requirements of the Magnuson-Stevens Fishery Conservation and Management Act, the Corps has determined that the proposal would impact approximately 3600 square feet of EFH utilized by pacific salmon, groundfish, coastal pelagic species. We have determined that the proposed action will not adversely affect EFH for federally-managed fisheries in Washington waters.

June 11, 2002

Date

Chris Czesla

Chris Czesla, BE Reviewer

6/12/02

Date

Murphy Walker

Environmental Analyst